

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	
	)	<b>Proceeding Under Sections</b>
<b>Pinney Dock &amp; Transport LLC</b>	)	<b>114(a)(1) of the Clean Air Act, 42 U.S.C</b>
<b>Ashtabula, Ohio</b>	)	<b>§ 7414(a)(1)</b>
	)	
	)	

**Agreed Administrative Consent Order and Information Request**

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Agreed Administrative Consent Order and Information Request ("Order") to Pinney Dock & Transport LLC ("Pinney Dock") under Section 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7414(a)(1). This Order supersedes Requests 7-26 of the Section 114 Information Request issued to Pinney Dock on March 23, 2015.

**Statutory and Regulatory Background**

2. The CAA is designed to protect and enhance the quality of the Nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the CAA, 42 U.S.C. § 7401(b)(1).

3. Section 108(a) of the CAA, 42 U.S.C. § 7408(a), requires the Administrator of EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare; and the presence of which in the ambient air results from numerous or diverse mobile or stationary sources. For each such "criteria" pollutant, Section 109 of the CAA, 42 U.S.C. § 7409, requires EPA to promulgate national primary and secondary ambient air quality standards (NAAQS) to protect the public health and welfare.

4. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a State Implementation Plan (SIP) that provides for the implementation, maintenance, and enforcement of the NAAQS. Section 110(2)(D) also requires that each SIP contain adequate provisions “(i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutants in amounts which will (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such NAAQs or (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility.” See 40 C.F.R. Part § 52.14

5. EPA approved Ohio Administrative Code (“OAC”) Chapter 3745-17-08 as part of the federally enforceable Ohio SIP on October 26, 2010 (effective December 27, 2010). 75 Fed. Reg. 65567.

6. OAC 3745-17-08(B) of the Ohio SIP requires, in part, that “no person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; or a building or its appurtenances or a road to be used, constructed altered, repaired, or demolished without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne.” (See 75 Fed. Reg. 65567).

### **Definitions**

7. “Facility” shall mean the Pinney Dock facility located at 1149 East Fifth Street, Ashtabula, Ohio 44004.

8. “OEPA” shall mean the Ohio Environmental Protection Agency.

9. "Petroleum Coke" or "petcoke" shall mean a black-colored solid composed primarily of carbon material that may contain limited amounts of elemental forms of sulfur metals and non-volatile inorganic compounds. Petcoke is a co-product of several processes used in the petroleum refining process to upgrade residuum into gasoline and middle distillate-range fuels that can be used as a boiler fuel and as a raw material in manufacturing.

10. "PM10" shall mean particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured either by a reference method that is based on 40 CFR Part 50, Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. See OAC 3745-17-01(16).

11. "Operate" shall mean using the Facility to load, unload, and store Petroleum Coke.

12. "Stockpile" shall mean any pile normally used for staging or storing of Petroleum Coke.

### **Findings**

13. Pinney Dock is located at 1149 East Fifth Street in Ashtabula, Ohio.

14. The Facility loads, unloads, and stores, among other bulk solid materials, Petroleum Coke.

15. On March 23, 2015, EPA issued a Section 114(a) information request requiring Pinney Dock to, among other things, install ambient air monitors for particulate matter ("PM") at the Facility and install a meteorological tower.

16. On March 26, 2015, Pinney Dock received the Section 114(a) information request.

17. EPA granted a 10-day extension of time to respond to Request No. 1 and a 30-day extension of time to respond to Request Nos. 2-26 of the Section 114(a) information request. On April 17, 2015, Pinney Dock responded to Request No. 1.

18. At a meeting on April 28, 2015, EPA agreed that Pinney Dock would respond to Request Nos. 2-6 by May 27, 2015, and that Pinney Dock and EPA would meet in June 2015 to address Request Nos. 7-26.

19. On May 27, 2015, Pinney Dock hand delivered to EPA its Response to Request Nos. 2-6 of EPA's Section 114(a) information request along with records and documents in an electronic format (bates-stamped PD0001-PD1918). Pinney Dock also produced certain documents that have been designated as Confidential Business Information, consistent with 40 CFR Part 2, Subpart B.

20. On June 11, 2015, EPA met representatives of Pinney Dock to discuss the Section 114(a) information request and ambient air monitoring requirements.

### **Compliance Program**

#### **a. Petroleum Coke**

21. No Petroleum Coke shall be stored outside in a Stockpile for longer than 24 hours after loading or unloading an entire shipment of petcoke.

22. Compliance with the limitations for visible emissions of fugitive dust, related to Petroleum Coke operations subject to this Order, shall be demonstrated based upon visible emission observations performed in accordance with the methods and procedures specified in 40 CFR Part 60, Appendix A, Method 9 ("EPA Reference Method 9") and OAC rule 3745-17-03(B)(3).

23. Beginning on the effective date of this Order, Pinney Dock will conduct EPA Reference Method 9 visible emission observations whenever Petroleum Coke is loaded or unloaded at the Facility, for a period of 12 months. Petroleum Coke may be loaded or unloaded at locations at the Facility, including vessel, rail, and building storage. If Petroleum Coke is loaded or unloaded within a building or enclosure, EPA Reference Method 9 visible emission observations shall be conducted at the point of highest opacity exiting the building or enclosure. If there are two or more operations taking place at the same location of Petroleum Coke, the EPA Reference Method 9 visible emission observations shall be conducted at the point of highest opacity at each location.

**b. Wind Speed and Direction Monitoring**

24. Pinney Dock shall install a meteorological tower for purposes of measuring temperature, barometric pressure, and wind speed.

25. Pinney Dock shall be responsible for maintenance associated with the meteorological tower on a schedule specified in the manufacturer's maintenance manual. Pinney Dock shall order and pay for any necessary replacement parts, accessories, and maintenance.

26. Within sixty days from the effective date of this Order, Pinney Dock will install and then maintain the meteorological tower for a period of two years from the effective date of this Order.

**c. Reporting and Recordkeeping**

27. Pinney Dock will submit a total of four (4) quarterly reports of all EPA Reference Method 9 visible emission observations for Petroleum Coke operations conducted within each respective prior quarter. The reports shall be submitted in accordance with Paragraph 29. The

reports are due within 15 days after the end of each quarter on or before January 15, April 15, July 15, and October 15.

28. Pinney Dock will submit a total of four (4) quarterly reports and data from the meteorological tower to EPA for a period of at least one year. Hourly data from the meteorological tower shall be downloaded as ASCII comma-delimited files and provided to EPA on a CD every quarter. The files should have a single "header" row, with all following rows being individual records, and all columns being a single variable according to the header row. All filter analysis data, including any specification data shall also be submitted to EPA in accordance with Paragraph 29. The reports are due within 15 days after the end of each quarter on or before January 15, April 15, July 15, and October 15.

29. Pinney Dock must send all reports and correspondence required by this Order to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

And to [miller.patrick@epa.gov](mailto:miller.patrick@epa.gov)

#### **General Provisions**

30. Pinney Dock agrees to the terms of this Order and further agrees that it will not contest the basis or validity of this Order.

31. Pinney Dock waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that it may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review of this Order under 42 U.S.C. § 7607(b)(1) or 5 U.S.C. §§ 701-706.

32. This Order does not affect Pinney Dock's responsibility to comply with other federal, state, and local laws.

33. This Order does not restrict EPA's authority to enforce Section 112 of the CAA, 42 U.S.C. § 7412, or any other section of the CAA.

34. Nothing in this Order limits EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for any violations of the CAA identified at the Pinney Dock Facility.

35. Failure to comply with this Order may subject Pinney Dock to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

36. The terms of this Order are binding on Pinney Dock, its assignees, and successors. Pinney Dock must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

37. Pinney Dock may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Pinney Dock fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301(a)(2)(i)(A), (B), and (C).

38. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part

as part of an administrative action or investigation. Please submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

39. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

40. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that Pinney Dock has complied with all terms of the Order throughout its duration.

AUGUST 24<sup>TH</sup>, 2015  
Date

Brad Biro  
Brad Biro  
Terminal Manager  
Pinney Dock & Transport LLC

9/2/15  
Date

George T. Czerniak  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5



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\_\_\_\_\_  
Date

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Brad Biro  
Terminal Manager  
Pinney Dock & Transport LLC

\_\_\_\_\_  
Date

9/2/15

\_\_\_\_\_  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**CERTIFICATE OF MAILING**

I, Loretta Shaffer, certify that I sent the Administrative Consent Order and Information Request, by certified mail, return receipt requested, to:

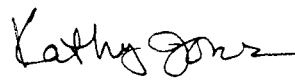
Brad Biro  
Terminal Manager  
Pinney Dock & Transport LLC  
1149 East Fifth Street  
Ashtabula, Ohio 44005

I also certify that I sent a copy of the Administrative Consent Order and Information Request, by first-class mail to:

Ed Fasko, APC Manager  
Ohio Environmental Protection Agency  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Bob Hodanbosi  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049

on the 3rd day of September, 2015.

  
for Loretta Shaffer  
Program Technician  
AECAB/PAS

CERTIFIED MAIL RECEIPT NUMBER: 7014 2870 0001 9580 4619